(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)

Misc. Appeal No. 442 Of 2006

SINGLE BENCH

APPELLANTS : 1. Tejram @ Teja @ Ashok Tandon S/o Chheduram,aged 26 Years , resident of Puraina , Thana Dabhara District Janjgir Champa, at present residing at Chhote Khaira, P.S. Sarangarh District Raigarh (CG).

2. Harbansh Kumar S/o Shiv Prasad , aged 33 Years , resident of Chhote Khaira , P.S. Sarangarh, District Raigarh (CG).

VERSUS

RESPONDENTS: CLAIMANTS

1. Panch Ram S/o Shobha Ram , aged about 58 years .
2. Shyam Bai W/o Panch Ram, aged 45 years.
3. Minor Johit Kumar S/o Panch Ram, aged 16 years .

All resident of Chandai , P.S. Sarangarh District Raigarh (CG). At present resident of Mohatara, Post Manpasar, P.S. Sarsiwa ,Tahsil Bilaigarh District Raipur (CG).

(**CLAIMANTS**)

4. ~~The New India Assurance Company Limited,~~ ~~Branch Office Raigarh (CG).~~

(**NON-APPLICANT NO.3**)

MEMORANDUM OF MISC APPEAL UNDER SECTION 173 OF MOTOR VEHICLES ACT

App. Value 50.000

A.F.R. (38)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

M.A. 442
मामला क्रमांक ..... सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

13.04.2006

Shri UR Koshley, counsel for the appellants.

None for respondents.

Heard on admission.

Janakram met with a motor accident, sustained injuries and succumbed to the injuries. Appellant No.1 driving the vehicle belonging to appellant No. 2 caused the accident. Respondents/ claimants filed claim petition in the capacity of legal representatives of the deceased and also filed an application under Section 140 of the Motor Vehicle Act (henceforth "The Act") for interim award. Learned Tribunal after due consideration of pleadings and documents on record, allowed the application and granted Rs.50,000/- towards interim award.

Learned counsel for the appellants contended that on the date of incident, the offending vehicle was unregistered. The registration took place on 21.02.2004, therefore, the liability cannot be fastened on the owner of the vehicle. The contention has no force because owner of a vehicle does not escape from his liability on account of non-registration of a vehicle which does not affect his title. Section 140 of the Motor Vehicle Act envisages that if any person as a result of accident dies, his legal representatives are entitled to recover

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विरुद्ध

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interim award from the owner of the vehicle and in case the vehicle is insured in accordance with Rule 227 of the Motor Vehicle Rules, 1994 liability to pay the interim award can also be fastened on insurer.

It is not disputed by the appellants that at the time of accident, the vehicle was not owned by appellant No.2. When necessary documents as required under Rule 227 of the Motor Vehicle Rules 1994 were with the Tribunal, it was for the Tribunal to pass interim award and it appears that the Tribunal accordingly did it. Appellants during the argument did not raise any other question.

The grant of interim award in favour of the claimants does not appear to be unauthorised or illegal. However, the Tribunal should bear in mind that the liability to pay interim award lies on the owner and insurer, in accordance with Section 140 of the Motor Vehicle Act and 227 of the Motor Vehicle Rules 1994.

With the aforesaid observations, the appeal filed by the appellants is dismissed.

Sd/-
V.K.Shrivastava
Judge

padma